

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

Rose Cozzens

(b) County of Residence of First Listed Plaintiff Atlantic
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, Email and Telephone Number)
John D. Borbi, Esq., Borbi, Clancy & Patrizi, 999 Route 73 North, Suite
103, Marlton, NJ 08053
Telephone: 856-424-5400

DEFENDANTS

WALMART; JOHN DOE(S) I-X (Fictitious names as persons/entities who maintained, controlled or managed the premises known as Walmart), individually, jointly, severally, or in the alternative

County of Residence of First Listed Defendant Benton
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

McDonnell & Associates, P.C., 500 Route 70 West, Cherry Hill, NJ
08002; 856-429-5300
cdamore@mcda-law.com

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1332

Brief description of cause:
Personal injury - premises liability

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/14/2014

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ROSE COZZENS,

Plaintiff,

v.

WALMART; JOHN DOE(S) I-X
(Fictitious names as persons/entities who
maintained, controlled or managed the
premises known as Walmart), individually,
jointly, severally, or in the alternative.

Defendant(s).

Civil Action

Case No.:

JURY TRIAL DEMANDED

DEFENDANT WALMART'S NOTICE OF REMOVAL

Defendant Walmart, more properly pled as Wal-Mart Stores East, LP (hereinafter referred to as "Wal-Mart"), files this Notice of Removal pursuant to 28 U.S.C. § 1441(a) and (b) to remove this action from the Superior Court of New Jersey, Law Division, Cumberland County, Docket No.: CUM-L-801-14, where it is now pending, to the United States District Court for the District of New Jersey. Wal-Mart, in support thereof, states as follows:

1. A civil action has been brought against Wal-Mart by Plaintiff, Rose Cozzens. The action is pending in the Superior Court of New Jersey, Law Division, Cumberland County, Docket Number CUM-L-801-14. Plaintiff filed the complaint on October 6, 2014 and served it on Wal-Mart on October 17, 2014. A true and accurate copy of Plaintiff's complaint is attached as Exhibit "A".

2. By letter dated October 24, 2014, Wal-Mart requested a statement of damages from Plaintiff. A true and accurate copy of the October 24, 2014 correspondence, with enclosures, is attached as Exhibit "B."

3. The October 24, 2014 correspondence also proposed a stipulation to limit Plaintiff's damages to \$75,000. Exhibit "B."

4. The undersigned counsel telephoned Plaintiff's counsel on November 4th and 5th to follow up on the statement of damages and the stipulation to limit damages. Plaintiff's counsel did not return the telephone calls.

5. By letter dated November 4, 2014, Wal-Mart again requested a statement of damages and a response to the proposed stipulation to limit damages. A copy of the November 4, 2014 correspondence, with enclosures, is attached as Exhibit "C."

6. Wal-Mart mailed an answer to the complaint to the Superior Court Clerk on November 5, 2014. The Clerk filed the answer on November 7, 2014. A filed copy has not yet been returned by the Clerk. An unfiled copy of the answer is attached hereto as Exhibit "D."

7. Plaintiff's counsel's assistant called the undersigned on November 10, 2014 and advised that Plaintiff had undergone knee surgery, that she was still treating, and that Plaintiff would not agree to limit damages to \$75,000. The undersigned advised that the case would be removed to the District Court.

8. The State Court wherein this action was originally filed is located in Cumberland County, New Jersey, which is embraced within this jurisdictional district.

9. Removal from the Superior Court of New Jersey, Law Division, Cumberland County is proper under 28 U.S.C. §1441(a) and (b), which authorizes the removal of any civil action of which the District Court of the United States has original jurisdiction and if "none of the parties in interest properly joined and served as a defendant is a citizen of the state in which such action is brought."

10. This Court has original jurisdiction under 28 U.S.C. §1332 because the parties are citizens of different states, and the matter in controversy exceeds \$75,000 as set forth below.

11. Plaintiff alleges that she resides at 40 Old Stage Coach Road, Bridgeton, Cumberland County, New Jersey. Exhibit "A."

12. Plaintiff's complaint contains allegations of negligence arising out of a shopping experience she had at Wal-Mart store number 3339 located at 1070 W. Landis Avenue, Vineland, Cumberland County, New Jersey on or about February 25, 2014. Exhibit "A."

13. On February 25, 2014, and at all times since, Wal-Mart store number 3339 was operated by Wal-Mart Stores East, LP. The employees working at store 3339 are and have been employed by Wal-Mart Stores East, LP.

14. Wal-Mart Stores, Inc., a Delaware corporation with its principal place of business in Arkansas, is the ultimate parent entity of Wal-Mart Stores East, LP.

15. Wal-Mart Stores East, LP is a Delaware limited partnership with its principal place of business in Bentonville, Arkansas.

16. As such, as of February 25, 2014 and October 6, 2014, Wal-Mart and its corporate parent, were Delaware corporate entities with their respective principal places of business in Arkansas.

17. There is no legal entity known as "Walmart."

18. Plaintiff's complaint sounds in negligence, and it does not contain a specific demand of damages. Exhibit "A".

19. As set forth above, Wal-Mart diligently worked to ascertain the amount in controversy and Plaintiff's alleged damages. Exhibits "B" and "C."

20. Plaintiff's complaint alleges that she sustained severe personal injuries as a result of the incident at Wal-Mart store 3339.

21. Plaintiff's counsel advises that Plaintiff underwent knee surgery as a result of the incident at Wal-Mart store 3339 and that she is still treating for her injuries.

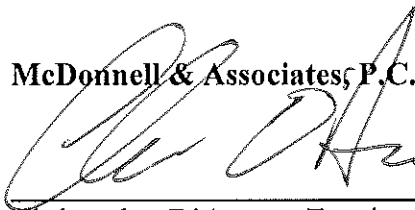
22. Plaintiff's refusal to enter into a stipulation to limit damages to \$75,000 and the nature of her alleged injuries only leaves Wal-Mart to conclude that the amount in controversy exceeds \$75,000.

23. This matter is being timely removed under 28 U.S.C. §1446(b) in that the notice of removal has been filed within 30 days of service of the complaint on Wal-Mart.

24. Based on the foregoing, the requirements of 28 U.S.C. §1441(a) and (b), 1446 and 1332 have been satisfied and the within matter is properly removable.

WHEREFORE, Defendant Walmart, more properly pled as Wal-Mart Stores East, LP, respectfully requests that this State Action be removed from the Superior Court of New Jersey, Law Division, Cumberland County to the United States District Court for the District of New Jersey.

McDonnell & Associates, P.C.



Christopher D'Amore, Esquire
500 Route 70 West
Cherry Hill, NJ 08002
Telephone: (856) 429-5300
Facsimile: (856) 429-5314
cdamore@mcdal-law.com

*Attorneys for Walmart, more properly pled as Wal-Mart
Stores East, LP*

DATED: November 14, 2014

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ROSE COZZENS,

Plaintiff,

v.

WALMART; JOHN DOE(S) I-X
(Fictitious names as persons/entities who
maintained, controlled or managed the
premises known as Walmart), individually,
jointly, severally, or in the alternative.

Defendant(s).

Civil Action

Case No.:

CERTIFICATE OF SERVICE

I, Christopher D'Amore, Esquire, hereby certify that on November 14, 2014, the Notice of Removal on behalf of Defendant Walmart, more properly pled as Wal-Mart Stores East, LP, was filed electronically with the Court and is available for viewing and downloading from the ECF system. I also certify that a true and correct copy was served via regular and certified mail on this same date on the following:

John D. Borbi, Esq.
Borbi, Clancy & Patrizi
999 Route 73 North, Suite 103
Marlton, NJ 08053
Counsel for Plaintiff

I hereby certify that the above statements are true. I am aware that if any of the above statements by me are willfully false, I am subject to punishment.



Christopher D'Amore, Esquire

Attorneys for Walmart, more properly pled as Wal-Mart Stores East, LP